



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590  
MAY 02 2016

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL 7009 1680 0000 7663 6544**  
**RETURN RECEIPT REQUESTED**

Mr. Kyle White  
Production Manager  
Trace-Zero, Inc.  
1650 North Burkhart Road  
Howell, Michigan 48855

Re: Notice of Violation  
RCRA Compliance Evaluation Inspection

Dear Mr. White:

On February 27, 2014, representatives of the U.S. Environmental Protection Agency and the Michigan Department of Environmental Quality (MDEQ) inspected Precise Finishing Systems ("PFS") and Trace-Zero, Inc. ("TZ") located in Howell, Michigan. The purpose of the inspection was to evaluate PFS and TZ's compliance with certain provisions of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6901 *et seq.*, and its implementing regulations; specifically, the regulations governing the generation, treatment, and storage of hazardous waste.

Based on the observations of the inspector, information provided by TZ personnel, and a review of records, EPA finds that TZ is engaged in the management of hazardous waste without a hazardous waste license, and is in violation of certain requirements of the Michigan Administrative Code (MAC) and the United States Code of Federal Regulations (C.F.R.). To be eligible for the exemption from the requirement to obtain a hazardous waste storage license, the conditions of MAC R. 299.9306(1) and (2) [40 C.F.R. § 262.34(a)-(c)] must be met. Specifically, EPA finds that TZ failed to comply with the following conditions for a storage license exemption, and is in violation of the following requirements:

1. A generator shall not treat or store, dispose of, or transport or offer for transportation, hazardous waste without having received a site identification number from the Regional Administrator or the Regional Administrator's Designee. A generator who has not received a site identification number may obtain one by applying to the Regional Administrator of the Regional Administrator's designee. *See* MAC R. 299.9303(1) and (2) [40 C.F.R. § 262.12(a) and (b)]. Applications for site identification numbers shall be



made on state form EQP5150<sup>1</sup> and signed pursuant to 40 C.F.R. § 270.11(a)(1) to (3). *See* MAC R. 299.9303(4).

A generator of hazardous waste is any person, by site, whose act or process produces hazardous waste, as defined in MAC R. 299.9203 [40 C.F.R. § 261.3], or whose act first causes a hazardous waste to become subject to regulation. A person, as defined in MAC R. 299.9106 [40 C.F.R. § 260.10], means an individual, trust, firm, joint stock company, federal agency, corporation, partnership, association, state, municipality, commission, political subdivision, state, or any interstate body.

At the time of inspection, TZ was operating within PFS's 1650 North Burkhart Road facility. TZ produces high-purity acids for the electronics industry and its process regularly generates hazardous waste. TZ ships its hazardous waste off-site on manifests using PFS's site identification number (although it is indicated on the manifest the generator is TZ). However, because PFS and TZ are wholly separate corporate entities, and therefore are each "persons" who generate hazardous waste through their separate processes, both companies are required to have a site identification number.<sup>2</sup> TZ, therefore, failed to obtain a site identification number and is in violation of the above requirement.

2. To avoid the need for a hazardous waste storage license, a generator of hazardous waste that accumulates hazardous waste in containers must mark each container with an accumulation start date. *See* MAC R. 299.9306(1)(b) [40 C.F.R. § 262.34(a)(2)]. A generator of hazardous waste that accumulates waste in containers must also label or mark clearly each container with the words, "Hazardous Waste." *See* MAC R. 299.9306(1)(c) [40 C.F.R. § 262.34(a)(3)]. In the State of Michigan, it is further required that containers used to store hazardous waste must also be labeled or marked with the hazardous waste number (code) of the waste. *See* MAC R. 299.9306(1)(b).

At the time of inspection, there were approximately eight totes and nineteen drums of hazardous waste in the TZ hazardous waste storage area. The containers were labeled as "Hazardous Waste," but many of the containers were not dated as required above, and were still marked with previous accumulation start dates. Additionally, none of the TZ hazardous waste containers were marked with the hazardous waste number (code). TZ, therefore, failed to comply with the above conditions for a hazardous waste storage license exemption.

3. To avoid the need for a hazardous waste storage license, a generator of hazardous waste must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, and spill control and decontamination equipment to any area of the facility in the event of an emergency. *See* MAC R. 299.9306(1)(d) [40 C.F.R. §§ 262.34(a)(4) and 265.35].

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<sup>1</sup> The form, along with additional information regarding the site identification process, is available at [www.michigan.gov/deq/0,1607,7-135-3312\\_4118\\_4240-9198--,00.html](http://www.michigan.gov/deq/0,1607,7-135-3312_4118_4240-9198--,00.html).

<sup>2</sup> Please see the enclosed guidance document, particularly FAQ responses 12 and 13, available at [www.epa.gov/epawaste/inforesources/data/biennialreport/](http://www.epa.gov/epawaste/inforesources/data/biennialreport/)

At the time of inspection, there was limited space between the drums and totes of hazardous waste in the TZ hazardous waste storage area. Drums and totes were stacked and closely grouped together and prohibited access for further inspection. As a result, it was difficult to identify and inspect the drums and totes, and these conditions would likely obstruct the movement and effectiveness of fire protection, spill control, and decontamination equipment. TZ, therefore, failed to meet the abovementioned condition for a hazardous waste storage permit exemption.

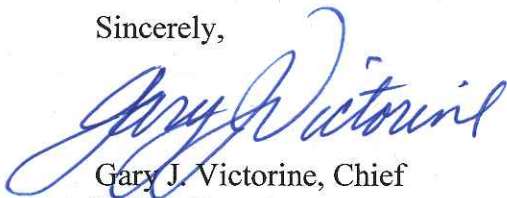
4. A generator of hazardous waste who accumulates hazardous waste on site and who does not meet the other conditions for the hazardous waste license exemption of MAC R. 299.9306(1)-(2) [40 C.F.R. § 262.34(a)-(c)], is an operator of a hazardous waste storage facility and is required to obtain a hazardous waste license. *See* MAC R. 299.9502(1), 299.9508, and 299.9510 [40 C.F.R. §§ 270.10(a) and (d)].

On failing to comply with the conditions for a license exemption referenced in items 2 and 3 above, TZ became an operator of a hazardous waste storage facility, and was required to apply for and obtain a hazardous waste license. TZ's failure to apply for and obtain a hazardous waste license violated the licensing requirements of MAC R. 299.9502(1), 299.9508, and 299.9510 [40 C.F.R. §§ 270.1(c); 270.10(a) and (d)].

At this time, EPA is not requiring TZ to apply for a hazardous waste license, so long as it immediately establishes compliance with the conditions for an exemption outlined above. Under Section 3008(a) of RCRA, EPA may issue an order assessing a civil penalty for any past or current violation requiring compliance immediately or within a specified time period. Although this letter is not such an order, we request that you submit a response in writing to this office no later than thirty (30) days after receipt of this letter documenting the actions, if any, which have been taken since the inspection to establish compliance with the above conditions and requirements.

You should submit your response to Brian Kennedy, U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, LR-8J, Chicago, Illinois 60604. If you have any questions regarding this letter, feel free to contact Mr. Kennedy, of my staff, at (312) 353-4383.

Sincerely,



Gary J. Victorine, Chief  
RCRA Branch

Enclosure

cc: William Yocum, MDEQ – ([yocumw@michigan.gov](mailto:yocumw@michigan.gov))  
John Craig, MDEQ – ([craigj@michigan.gov](mailto:craigj@michigan.gov))  
Lonnie Lee, MDEQ – ([leel@michigan.gov](mailto:leel@michigan.gov))

## **BR FAQs**

### **1. What is the biennial report and who must submit it?**

Section 3002(a)(6) of the Resource Conservation and Recovery Act (RCRA) requires EPA to develop a program for hazardous waste generators to report the nature, quantities, and disposition of hazardous waste generated at least once every two years. In addition, section 3004(a)(2) of RCRA requires treatment, storage and disposal facilities (TSDFs) to submit a report on the wastes that they receive from off-site. The biennial Hazardous Waste Report (also known as the "Biennial Report") was implemented in 1985 to comply with these requirements.

The Biennial Report form (8700-13A/B) must be submitted to the authorized state agency or the EPA Regional Office by March 1st of every even-numbered year. The form includes information such as the facility's EPA ID number, the name and address of the facility, the quantity of hazardous waste sent to each TSDF in the U.S. and the manner in which the waste was treated during the previous year.

### **2. My facility generated 2800 pounds of an oily sludge hazardous waste in one month during a clean out project. Do we have to file for the biennial report?**

Yes. The federal regulations require that a site submit data to the Biennial Report if the site generates, in any calendar month, 1,000 kg (2,200 lbs.) of hazardous waste. You should contact your state for further information, as many states have additional requirements.

### **3. Are all hazardous waste generators required to submit the RCRA Biennial Report?**

No. Federal regulations only require large quantity generators to submit the Biennial Report (see §262.41). Small quantity generators (SQGs) and conditionally exempt small quantity generators (CESQGs) are not subject to the federal biennial reporting requirements, but such generators should consult with their implementing agencies since states can have more stringent reporting requirements.

### **4. I am looking in the RCRA Biennial Report. How do I find what percentage of hazardous waste is generated by LQGs?**

The National Biennial RCRA Hazardous Waste Report contains various statistics on the generation and management of hazardous waste. However, it does not contain any statistical information on the total percentage of hazardous waste generated by LQGs. Federally, only LQGs are required to report. The first volume of the report does have percentages of waste generated by each state.

**5. Can generators keep Hazardous Waste Manifests and Biennial Report information off site?**

Yes. Generators are not required to keep copies of manifests and biennial reports on site. Generators may keep copies at a corporate headquarters. However, the generator must be able to provide to EPA information on, or access to, these records.

**6. Who is required to sign the certification statement on the Site Identification (Site ID) Form?**

The certification must be signed by owner(s), operator(s), or authorized representative(s) of a facility that is subject to the biennial reporting requirements. An "authorized representative" is a person responsible for the overall operation of the site (i.e., plant manager or superintendent, or a person of equal responsibility).

**7. What are the recordkeeping and notification requirements for conditionally exempt small quantity generators (CESQGs)?**

Although CESQGs are not subject to recordkeeping, including notification, biennial reporting, and manifest requirements, they are still subject to limited generator waste management standards. 40 CFR §261.5 sets forth the special requirements for hazardous waste generated by the conditionally exempt small quantity generators. However, some states may require recordkeeping or collect data on CESQGs through inspections, so you should contact your state environmental agency for guidance on CESQG recordkeeping requirements.

**8. Where can the public access facility specific, hazardous waste management data?**

EPA maintains hazardous waste management data in RCRAInfo, a comprehensive information system for RCRA hazardous waste data. The public and regulated community cannot directly access RCRAInfo. Instead, EPA periodically uploads specific hazardous waste management data from RCRAInfo into the Envirofacts Data Warehouse. The Envirofacts Web site provides access to several EPA databases, which provide information about environmental activities anywhere in the country.

The Envirofacts Data Warehouse is available at the following URL:  
<http://www.epa.gov/enviro>

Hazardous Waste Query Form allows users to retrieve selected facility specific data from RCRAInfo. In addition, the Biennial Report (BR) Query Form allows users to retrieve hazardous waste management data submitted to EPA in Biennial Report submissions. Both queries enable a user to specify a facility using any combination of the facility name, geographic location, and/or standard industrial



classification code. Additional facility specific data, beyond what is accessible in Envirofacts, is available by contacting the state implementing agency.

**9. In what form is hazardous waste generation data available?**

For the latest information on hazardous waste generation in the United States, we recommend that you look at the most recent Biennial Report. All large quantity generators (LQGs) and treatment, storage, and disposal facilities (TSDFs) are required to submit information for the Biennial Report. In some cases, additional entities are required to submit information by their state implementing agency. Additional information, including the most recent Biennial Report, is available at the following URL: <http://www.epa.gov/biennialreport/>

In addition, we recommend that you also contact your state's implementing agency to acquire additional information on hazardous waste data. at <http://www.epa.gov/epaoswer/osw/stateweb.htm>.

**10. I am doing a site assessment. How can I locate my RCRA TSDFs that may be within the vicinity of a specific street address?**

You may find facilities by conducting a geographic search on the RCRAInfo query form through the Envirofacts Data Warehouse.

The National Biennial RCRA Hazardous Waste Report provides a list of reported RCRA sites in the United States, but only provides city and state for facilities that treated or disposed of hazardous waste.

To obtain information about a facility's compliance record, individuals can contact the implementing agency where the facility is located.

**11. How does a hazardous waste generator, transporter, or treatment, storage, and disposal facility obtain an EPA identification (ID) number?**

All persons who generate, transport, recycle, treat, store, or dispose of hazardous waste are required to notify EPA of their hazardous waste activities. EPA ID numbers are obtained by filing EPA Form 8700-12, Notification of Regulated Waste Activity (PDF), [240K] with the appropriate EPA Regional or authorized state RCRA office (Sections 262.12, 263.12, and 264.11).

**12. A generator has multiple structures within the same contiguous property. Is each structure required to have an individual EPA identification number?**

No. For the purposes of generator notification and obtaining EPA identification numbers, and assuming the structures are on-site as defined in §260.10, one identification number is sufficient for all structures at the facility site. EPA identification numbers are issued to facilities on a by-site basis. There is no

regulatory definition for the term “by-site”; however, it refers to where a hazardous waste is generated.

For example, if a single company operates three laboratories on a single piece of property, all three laboratories may share one EPA ID number, and the waste from all three laboratories may be evaluated together. However, if the company operates three laboratories at three different locations that are not considered to be on contiguous property, each laboratory is viewed as a separate potential generator and is required to obtain an individual EPA ID. Furthermore, when the laboratories or structures are owned by different people, the generator must obtain one identification number for each laboratory or structure even if the regulated activity is taking place on a contiguous piece of property.

**13. Do I need two ID numbers if I have two companies both at the same site?**

Yes. A generator is any person, by site, whose act or process produces hazardous waste identified or whose act first causes a hazardous waste to become subject to regulation. Person means an individual, trust, firm, joint stock company, federal agency, corporation, partnership, association, state, municipality, commission, political subdivision of a state or any interstate body. The two distinct companies (i.e. persons) must each apply for a separate EPA ID number. Even though ID numbers usually are site-specific, where different people conduct different regulated activities on a site, a person conducting each regulated activity must obtain an EPA ID number.

**14. Can the Biennial Report form on the Internet be filled out electronically?**

Yes. The form is available as a “fillable” pdf file and can be filled out electronically. The link to download the form is:  
<http://www.epa.gov/osw/inforesources/data/biennialreport/>. Also, electronic reporting tools are available in some states.

**15. Should 10 Day Transfer facilities report all their waste from off-site facilities on the WR Form?**

No. Because transfer facilities that generate no RCRA hazardous waste and keep all waste received onsite for under 10 days typically do not have a Treatment, Storage or Disposal Facility (TSDF) permit, they are considered neither a TSDF or a LQG so they are not required to file a Biennial Report by EPA. They are also not subject to the Facility Report requirement (264.75 or 265.75) because they don't have a permit and are not managing waste in a way that requires one. However, you should check with your state to see if there are any different requirements.



- 16. Does a large-quantity generator who generates a hazardous waste in December of a non-reporting year but ships it in January of the reporting year need to include that waste in their hazardous waste report?**

No. The LQG does not need to report the waste on their GM form ,but the TSDF who received the waste does need to report it on their WR Form.

- 17. Can we extend the date filers are to submit their forms?**

No. The Biennial Report forms are due March 1<sup>st</sup> of each even numbered year (see 40 CFR Part 262.41(a)). Contact your state for extensions to their deadline.

- 18. Which states require annual reporting?**

EPA Region	States that require annual reporting
1	Maine, New Hampshire
2	New Jersey, New York
3	Delaware, District of Columbia
4	Georgia, Kentucky, Mississippi, South Carolina, Tennessee
5	Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin
6	Arkansas, Louisiana, Oklahoma, Texas
7	Kansas, Missouri
8	Montana
9	Arizona, California, Guam
10	Idaho, Oregon, Washington

